

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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MAY 30 1996

Cellular Priority Access for )  
National Security and Emergency ) WT Docket No. 96 - 86<sup>1</sup>  
Preparedness Communications )

**COMMENTS OF THE MANAGER OF THE NATIONAL COMMUNICATIONS SYSTEM** DOCKET FILE COPY ORIGINAL

The Secretary of Defense, as Executive Agent of the National Communications System<sup>2</sup>, and on behalf of its Manager, through duly authorized counsel, pursuant to Section 201 of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Section 481, and the Memorandum of Understanding between the Department of Defense and the General Services Administration dated November 27, 1950, hereby files these comments in the above-captioned matter.

On October 19, 1995, the Manager filed a petition for rulemaking urging the Commission

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<sup>1</sup>This docket number is also assigned to a proceeding captioned "The Development of Operational, Technical, and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010."

<sup>2</sup>Executive Order 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions", April 3, 1984, (49 Fed. Reg. 13471, 1984), established the National Communications System (NCS), which consists of an administrative structure involving the Executive Agent, Committee of Principals, Manager, and the telecommunications assets of the Federal organizations which are represented on the Committee of Principals. Section 1(e) of Executive Order 12472 designates the Secretary of Defense as Executive Agent of the NCS. By direction of the Executive Office of the President, the NCS member organizations (which are represented on the Committee of Principals) are: Department of Agriculture, Central Intelligence Agency, Department of Commerce, Department of Defense, Department of Energy, Federal Emergency Management Agency, General Services Administration, Department of Justice, National Aeronautics and Space Administration, the Joint Staff, Department of State, Department of Transportation, Department of Treasury, U.S. Information Agency, the Department of Veterans Affairs, Department of Health and Human Services, Department of the Interior, National Security Agency, the National Telecommunications and Information Administration and the Nuclear Regulatory Commission. The Federal Communications Commission, the United States Postal Service and the Federal Reserve Board also participate in the activities of the NCS. The vast majority of the telecommunications assets of these 23 organizations are leased from commercial communications carriers and serve the National Security and Emergency Preparedness (NS/EP) needs of the Federal government as well as State and local governments.

to adopt rules to govern Cellular Priority Access Service (CPAS). The petition cited the growing reliance of personnel engaged in National Security and Emergency Preparedness (NS/EP) on cellular communications and the difficulty they encounter as cellular channels become unavailable during emergency situations because of congestion. The petition proposed rules to permit NS/EP personnel access to cellular channels ahead of those without NS/EP responsibilities.

The Commission placed the petition on Public Notice on April 18, 1996 (DA 96-604) under the same docket number as its Notice of Proposed Rulemaking (NPRM) relating to public safety communications (WT Docket No. 96-86). In the Public Notice relating to CPAS, the Commission asked interested parties to comment on the merits and in addition to address whether and to what extent the issues raised in the NCS' petition are related to the pending public safety rulemaking. These comments address that question and conclude that although there is admittedly some overlap between the two inasmuch as they both address public safety issues, the CPAS petition should be handled in a proceeding separate from the public safety rulemaking for the following reasons:

#### **THE SCOPE OF THE ISSUES IS VASTLY DIFFERENT**

The public safety NPRM seeks comments on diverse, far ranging issues:

“...this *Notice* seeks comment on: (1) regulatory approaches that will facilitate the development of interoperable equipment and technologies; (2) the service features and system requirements essential to the effective performance of public safety functions; (3) technological issues regarding the enhancement and improvement of public safety wireless communications; (4) means of allocating spectrum for public safety agencies to ensure that they have adequate spectrum to perform their duties; (5) the measures that need to be implemented in order to foster an environment which promotes public safety wireless communications which are spectrally-efficient, of high quality, and effective; and (6) the means to promote competition in the supply of goods and services used by

public safety agencies.” NPRM, pages 2, 3.

The CPAS proposal, focused on emergency response, is much narrower and implementing CPAS does not depend on the results of any analysis required to resolve the issues presented in the public safety NPRM.

Specifically, the public safety NPRM addresses the issues before the Commission through six separate areas of inquiry, with sub issues:

(A) Interoperability Issues

1. Public Safety Definition
2. Inteoperability Definition
3. Interoperability Needs
4. Interoperabillity Options

(B) Operational Issues

1. Service Features
2. System Requirements

(C) Technology Issues

(D) Spectrum Allocation

1. Overview of Spectrum Issues
2. Spectrum Allocation Options

(E) Transition

1. Increased Use of Commercial Services
2. Funding for Spectrum Migration
3. Improving Public Spectrum Administration

(F) Competition in the Supply of Goods and Services

That's a long list of issues, none of which have any impact on CPAS. In fact, implementation of CPAS could help resolve some of the public safety issues posed by the Commission to the extent the use of commercial frequencies for public safety activities relieves congestion and operability problems on assigned public safety frequencies.

The Commission recognizes that the increased use of commercial services may alleviate some public safety issues. NPRM, page 32. Seemingly not recognized by the Commission is that the use of commercial cellular frequencies is **ALREADY** serving as an alternative to the use of public safety frequencies for emergency response. This may be because of cellular's ability to interconnect to the Public Switched Network or because of the operational difficulties with the public safety frequencies pointed out by the Commission in the NPRM. Whatever the reasons, if cellular were not being used, there would have been no need for CPAS rules, designed exclusively to support public safety efforts.<sup>3</sup> There would have been no incentive for representatives of public safety agencies, equipment manufacturers, cellular carriers, Federal, State and local governments, and trade associations to have devoted the great amount of time they devoted to the development of CPAS rules.

There are no interoperability issues with CPAS. There are no operational issues with CPAS. There are no significant technology issues with CPAS. There are no spectrum allocation

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<sup>3</sup>The Commission in the public safety NPRM asks for comments on the definition of "public safety." It appears to the NCS that the definitions of public safety and "National Security Emergency Preparedness (NS/EP) telecommunications services" contained in the Commission's Telecommunications Service Priority System" found in Appendix A to Part 64 of the Commission's Rules are nearly identical in substance. The proposed CPAS rules adopt that definition. The NCS may offer comments on this aspect when comments are due in the public safety NPRM.

issues with CPAS. There are no transition issues with CPAS. There are no competition in the supply of goods and services issues with CPAS. CPAS is doable in the very near term without resolution of the issues to be addressed by the Commission in the public safety proceeding.

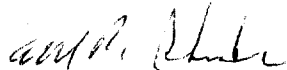
### **CPAS IS NEEDED NOW**

The issues posed by the Commission in the public safety NPRM are not going to be resolved by the Commission in the near future. Action by the Commission on CPAS is necessary to ensure a nationwide, uniform system of affording cellular priority access during emergency situations. Already, there are States with legislation mandating some form of cellular priority access. At least one, Oregon, has "held off" on implementation awaiting Commission guidance. The Commission should act now to expeditiously adopt CPAS rules and thereby establish a nationwide standard for this important service.

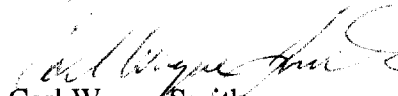
### **CONCLUSION**

The Commission should issue a Notice of Proposed Rulemaking for CPAS, separate from the public safety Notice of Proposed Rulemaking.

Respectfully submitted,



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